IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 816 of 1999

in

SPECIAL CIVIL APPLICATIONNo 6003 of 1998

With
CIVIL APPLICATION NO. 10984 OF 1999
CIVIL APPLICATION NO. 13783 OF 1999
AND
CIVIL APPLICATION NO. 1393 OF 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SUKHABHAI ZAVERBHAI HALPATI

Versus

STATE OF GUJARAT

Appearance:

MR PM BHATT for Appellants
MR. S.K. PATEL, LD.GOVT PLEADER for Respondent No. 1
MR YN RAVANI for Respondent No. 4

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE B.C.PATEL

Date of decision: 08/03/2000

ORAL JUDGEMENT

Per: B.C. Patel, J :-

Rule. In C.A. 1393 of 2000, Learned counsel for the respondents waive service of rule.

2. The Appellant-Original petitioner being aggrieved by the order passed by learned Single Judge dated 12-4-1999 in Special Civil Application No. 6003 of 1998, has preferred this appeal.

3. Learned counsel Mr. Ravani appears for Gujarat Housing Board, who has preferred an application being Civil Application No. 1393 of 2000 for vacating the ad interim relief granted in the nature of status quo.

4. We have heard learned counsel appearing for the parties. From the record it transpires that the subject matter of the present appeal is a plot of land bearing Survey No. 9, situated at Village Parvat, admeasuring 27,013.00 sq. meters. The land being in excess the proceedings were terminated in acquisition of the said plot of land under the provisions contained in the Urban Land (Ceiling & Regulation) Act, 1976 (hereinafter referred as `the Act'). On behalf of Gujarat Housing Board, documents are placed before the Court indicating that, the possession of the land has been handed over to the Housing Board on 29-8-1995, before which notice was given by respondent no.1 to the appellant on 11-8-95. Panchanama with regard to handing over possession, indicating that the possession of the aforesaid land is handed over to the Housing Board for the purpose of development, and entry of Form No.-6, indicating that the possession of the aforesaid land has been taken on 29-8-95 are placed on record. From AnnexureR-4 it is very clear that a Scheme was framed by the State Government for the purpose of allotment of plots as per the scheme to the downtrodden people and for this purpose the possession of land was handed over to the Housing Board. It was therefore necessary for the Housing Board to develop the land, lay internal roads, common plot and other facilities therein for the allottees.

5. Mr. M.C. Bhatt, learned counsel appearing for the appellant submitted that, no doubt the proceedings have been terminated and the possession has been taken over. He submitted that the appellant put a scheme much earlier under the provisions contained under section 21 (1) of the Act, however the same has been rejected on improper and illegal grounds by the competent authority vide order dated 18-11-1992. His contention is that, merely because the proceedings have been culminated upto the stage of section 10 (3) of the Act and the same has been published in the Gazette, the application under section 20(1) of the Act can not be rejected. We have gone through the order at Annexure-B to the petition. Reading the order, it becomes clear that, the application was rejected on the ground that the appellant did not produce before the competent authority the requisite material despite the time being granted. The aspect namely notification published on 27-2-92 being the factual aspect was not out of sight while deciding the application of the appellant/petitioner. From this it is very clear that, it is not correct to say that the competent authority has passed an order only on the ground that the land was declared 'excess', and possession of which was taken by the Government. Apart from that, the petitioner also filed Spl.C.A. No. 1027/96 before this Court on 16-2-1996, which was withdrawn with a view to enable the petitioner to challenge the aforesaid order before the appropriate authority.

6. Mr. Bhatt submitted that, after withdrawal of the aforesaid petition, an appeal being Appeal No. 12/96 was preferred before Tribunal under the Act. It is required to be noted that, considering the gross delay Tribunal has rejected the said appeal. No doubt, in the rejection order Tribunal has taken note of the fact that the plots have been earmarked and possession of 234 plots have been handed over to the allottees. Subsequently review application of the appellant was also rejected. It is against these orders, the appellant/ori. petitioner preferred Spl.C.A. No. 6003/98, which was dismissed by learned Single Judge, which is under challenge before us in this LPA.

7. It is required to be noted that, before the initial order was passed,the appellant did not produce necessary material and after the proceedings were terminated it is of no use to make a grievance, more particularly when the State Government has taken a decision to allot plots to downtrodden people. We are in agreement with the views expressed by learned Single

Judge, and in our opinion, we find no merits in the appeal. The appeal is accordingly dismissed.

8. In view of our aforesaid decision in the appeal, civil applications are not required to be entertained. Status quo order granted earlier in Civil Application No. 10984/99 shall stand vacated. Notice discharged. In view of this order, no orders are required to be passed in C.A.No. 1393 of 2000. Rule discharged.

Dt: 8-3-2000

(D.M. Dharmadhikari, C.J.)

(B.C. Patel, J)

/vgn.